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## **An Act To Create the State Advanced Practice Registered Nursing Board**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 5 MRSA §12004-A, sub-§25-A** is enacted to read:

**25-A.**

Legislative Per Diem

32 MRSA §2151-A

State Advanced Practice  
Registered Nursing Board

**Sec. 2. 32 MRSA §2101**, as amended by PL 1993, c. 600, Pt. A, §108, is further amended to read:

### **§ 2101.Purpose**

The State Board of Nursing is the state regulatory agency charged with protection of the public health and welfare in the area of nursing service, with the exception of advanced practice registered nurses. In order to safeguard the life and health of the people in this State, an individual who for compensation practices or offers to practice professional nursing or practical nursing in this State shall submit evidence that the individual is qualified so to practice and that individual must be licensed. It is unlawful for an individual not licensed under this chapter to practice or to offer to practice professional or practical nursing in this State; to use a sign, card or device to indicate that the individual is a professional registered nurse or a licensed practical nurse; or to hold oneself out to the public as a professional registered nurse or a licensed practical nurse. The State Advanced Practice Registered Nursing Board is the state regulatory agency charged with protection of the public health and welfare in the area of advanced practice registered nursing service.

**Sec. 3. 32 MRSA §2102, sub-§1-A** is enacted to read:

**1-A. Advanced board.** "Advanced board" means the State Advanced Practice Registered Nursing Board established under Title 5, section 12004-A, subsection 25-A.

**Sec. 4. 32 MRSA §2102, sub-§2, ¶H**, as enacted by PL 1995, c. 670, Pt. C, §6 and affected by Pt. D, §5, is amended to read:

H. Coordination and oversight of patient care services provided by unlicensed health care assistive personnel. Nothing in this paragraph prohibits a nurse in the exercise of professional judgment from refusing to provide such coordination and oversight in any care setting. The board and advanced board shall adopt, pursuant to Title 5, chapter 375, subchapter H-A2-A, major substantive rules for the application of this paragraph to nursing practice.

**Sec. 5. 32 MRSA §2102, sub-§2-A**, as amended by PL 2007, c. 316, §1, is further amended to read:

**2-A. Advanced practice registered nursing.** "Advanced practice registered nursing" means the delivery of expanded professional health care by an advanced practice registered nurse that is:

- B. Within the advanced practice registered nurse's scope of practice as specified by the advanced board by rulemaking, taking into consideration any national standards that exist; and
- C. In accordance with the standards of practice for advanced practice registered nurses as specified by the advanced board by rulemaking, taking into consideration any national standards that may exist. Advanced practice registered nursing includes consultation with or referral to medical and other health care providers when required by client health care needs.

A certified nurse practitioner or a certified nurse midwife who qualifies as an advanced practice registered nurse may prescribe and dispense drugs or devices, or both, in accordance with rules adopted by the advanced board.

A certified nurse practitioner who qualifies as an advanced practice registered nurse must practice, for at least 24 months, under the supervision of a licensed physician or a supervising nurse practitioner or must be employed by a clinic or hospital that has a medical director who is a licensed physician. The certified nurse practitioner shall submit written evidence to the advanced board upon completion of the required clinical experience.

The advanced board shall adopt rules necessary to effectuate the purposes of this chapter relating to advanced practice registered nursing.

**Sec. 6. 32 MRSA §2102, sub-§10**, as enacted by PL 2007, c. 316, §2, is amended to read:

**10. Supervising nurse practitioner.** "Supervising nurse practitioner" means a certified nurse practitioner who qualifies as an advanced practice registered nurse who has:

- A. Completed 24 months of supervised practice in accordance with subsection 2-A;
- B. Practiced as an advanced practice registered nurse for a minimum of 5 years in the same speciality;
- C. Worked in a clinical health care field for a minimum of 10 years; and
- D. Been approved by the advanced board.

The advanced board shall adopt rules necessary to effectuate the purposes of this chapter relating to supervising nurse practitioners. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 7. 32 MRSA §2104, sub-§1**, as amended by PL 1993, c. 600, Pt. A, §114, is further amended to read:

**1. Application for approval.** An institution desiring to conduct a nursing education program to prepare professional nurses, advanced practice registered nurses or practical nurses must apply to the board or advanced board and submit evidence that:

A. It is prepared to carry out the prescribed professional nursing curriculum, advanced practice registered nursing curriculum or the prescribed curriculum for practical nursing, as the case may be; and

B. It is prepared to meet other standards as established by this chapter and by the board or advanced board.

**Sec. 8. 32 MRSA §2104, sub-§2,** as amended by PL 1993, c. 600, Pt. A, §114, is further amended to read:

**2. Survey.** A survey of the institution and its entire nursing education program must be made by either or both the executive director or other authorized appointee of the board or advanced board depending on what program is reviewed, who shall submit a written report of the survey to the board or advanced board. If, in the opinion of the board or advanced board, the requirements for an approved nursing education program are met, the institution must be approved as a nursing education program for professional, advanced practice registered or practical nurses.

From time to time as determined necessary by the board or advanced board, it is the duty of the board or advanced board, through its executive director or other authorized representative of the board or advanced board, to survey all nursing education programs in the State. Written reports of the surveys must be submitted to the board or advanced board. If the board or advanced board determines that an approved nursing education program is not maintaining the standards required by statute and by the board or advanced board, notice in writing specifying the defect or defects must be immediately given to the institution conducting the program. If a program fails to correct these conditions to the satisfaction of the board or advanced board within a reasonable time, the board or advanced board shall take appropriate action pursuant to section 24532153-A.

**Sec. 9. 32 MRSA §2105-A, sub-§1-A,** as amended by PL 2001, c. 260, Pt. D, §2, is further amended to read:

**1-A. Disciplinary proceedings and sanctions.** The board or advanced board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board or advanced board, regarding noncompliance with or violation of this chapter or of rules adopted by the board or advanced board. Investigation may include a hearing before the board or advanced board to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise considered necessary to the fulfillment of its responsibilities under this chapter. The board or advanced board may subpoena witnesses, records and documents, including records and documents maintained by a health care facility, in an investigation or hearing it conducts.

The board or advanced board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but not later than 60 days from receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board or advanced board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board or advanced board, the factual basis of the complaint is or may be true, and it is of sufficient gravity to warrant further action, the board or advanced board may request an informal conference with the licensee. The board or advanced board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference must be conducted in executive session of the board or advanced board, or its subcommittee, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board or advanced board or its subcommittee finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it considers appropriate:

- A. Warn, censure or reprimand;
- B. With the consent of the licensee, enter into a consent agreement that fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board or advanced board, the licensee and the Attorney General's office;
- C. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement that ensure protection of the public health and safety and serve to rehabilitate or educate the licensee. These stipulations may be set forth only in a consent agreement signed by the board or advanced board, the licensee and the Attorney General's office;
- D. If the board or advanced board or its subcommittee concludes that modification or nonrenewal of the license is in order, hold an adjudicatory hearing in accordance with the provisions of Title 5, chapter 375, subchapter IV<sup>4</sup>; or
- E. If the board or advanced board or its subcommittee concludes that suspension or revocation of the license is in order, file a complaint in the District Court in accordance with Title 4, chapter 5.

**Sec. 10. 32 MRSA §2105-A, sub-§2**, as amended by PL 1993, c. 600, Pt. A, §116, is further amended to read:

**2. Grounds for discipline.** The board or advanced board may suspend or revoke a license pursuant to Title 5, section 10004. The following are grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of an individual licensed under this chapter:

- A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;
- B. Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients;
- C. A professional diagnosis of a mental or physical condition that has resulted or is foreseeably likely to result in the licensee performing the licensee's duties in a manner that endangers the health or safety of the licensee's patients;
- D. Aiding or abetting the practice of nursing by an individual not licensed under this chapter and who claims to be legally licensed;
- E. Incompetence in the practice for which the licensee is licensed. A licensee is considered incompetent in the practice if the licensee has:

(1) Engaged in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed;

F. ~~Unprofessional conduct.~~ A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established in the practice for which the licensee is licensed;

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false statement or that relates directly to the practice for which the licensee is licensed or conviction of a crime for which incarceration for one year or more may be imposed;

H. A violation of this chapter or a rule adopted by the board or advanced board; or

I. Engaging in false, misleading or deceptive advertising.

**Sec. 11. 32 MRSA §2105-A, sub-§3**, as amended by PL 1993, c. 600, Pt. A, §116, is further amended to read:

**3. Confidentiality of information.** Reports, information or records provided to the board or advanced board by a health care facility pursuant to this chapter are confidential insofar as the reports, information or records identify or permit identification of a patient, except that the board or advanced board may disclose confidential information:

- A. In an adjudicatory hearing or informal conference before the board or advanced board or in a subsequent formal proceeding to which the information is relevant; and

B. In a consent agreement or other written settlement when the information constitutes or pertains to the basis of board or advanced board action.

A copy of a report, information or record received by the board or advanced board under this subsection must be provided to the licensee.

**Sec. 12. 32 MRSA §2105-A, sub-§4**, as enacted by PL 2009, c. 47, §2, is amended to read:

**4. Authority to request mental and physical examinations.** For the purposes of this section, by application for and acceptance of a license to practice, a nurse is considered to have given consent to a mental or physical examination when directed by the board or advanced board. The board or advanced board may direct a nurse to submit to an examination whenever the board or advanced board determines the nurse may be suffering from a mental illness that may be interfering with the competent practice of nursing or from the use of intoxicants or drugs to an extent that they are preventing the nurse from practicing nursing competently and with safety to patients. A nurse examined pursuant to an order of the board or advanced board may not prevent the testimony of the examining individual or prevent the acceptance into evidence of the report of an examining individual in a proceeding under subsection 1-A. Failure to comply with an order of the board or advanced board to submit to a mental or physical examination results in the immediate suspension of the license of the nurse by order of the District Court until the nurse submits to the examination.

**Sec. 13. 32 MRSA §2105-A, sub-§5**, as enacted by PL 2009, c. 47, §3, is amended to read:

**5. Nurse health program.** The board and advanced board may establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols must include the committee's reporting information the board ~~considers~~and advanced board consider appropriate regarding reports received, contracts or investigations made and the disposition of each report, as long as the committee is not required to disclose any personally identifiable information. The protocols may not prohibit an impaired nurse from seeking alternative forms of treatment.

The board and advanced board may contract with other agencies, individuals, firms or associations for the conduct and operation of a nurse health program operated by a professional review committee as that term is defined in Title 24, section 2502, subsection 4-A.

**Sec. 14. 32 MRSA §2107**, as amended by PL 1993, c. 600, Pt. A, §118, is further amended to read:

### **§ 2107. Injunctions**

The Superior Court has jurisdiction, upon information filed by the county attorney at the request of the board or advanced board, to restrain or enjoin an individual from committing an act declared to be a misdemeanor by this chapter. If it is established that the defendant has been or is committing an act declared to be a misdemeanor by this chapter, the court shall enter a decree perpetually enjoining the defendant from further committing that act. In case of violation of an injunction issued under this section, the court may summarily try and punish the offender for contempt of court. Injunction proceedings are in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

**Sec. 15. 32 MRSA §2108-A, sub-§1**, as amended by PL 1993, c. 600, Pt. A, §119, is further amended to read:

**1. Making information available to the board and advanced board.** Making a report or other information available to the board and advanced board under this chapter; and

**Sec. 16. 32 MRSA §2108-A, sub-§2**, as amended by PL 1993, c. 600, Pt. A, §119, is further amended to read:

**2. Assisting the board and advanced board.** Assisting the board and advanced board in carrying out its~~their~~ duties.

**Sec. 17. 32 MRSA §2109**, as enacted by PL 2003, c. 64, §1, is amended to read:

**§ 2109. Confidentiality of personal information of applicant or licensee**

For applications for licensure and for renewal of licensure submitted on or after July 1, 2004, an applicant or licensee shall provide the board or advanced board with a current professional address and telephone number, which is the public contact address, and a personal residence address and telephone number. An applicant's or licensee's personal residence address and telephone number, and e-mail address if provided by the applicant, are confidential information and may not be disclosed except as permitted by this section or as required by law unless the personal residence address, telephone number and e-mail address have been provided as the public contact address. Personal health information submitted as part of any application is confidential information and may not be disclosed except as permitted or required by law.

**Sec. 18. 32 MRSA §2151-A** is enacted to read:

**§ 2151-A. Appointment; term; removal**

The State Advanced Practice Registered Nursing Board, as established by Title 5, section 12004-A, subsection 25-A, consists of 7 members who are appointed by the Governor. A full-term appointment is for 4 years. Appointment of members must comply with Title 10, section 8009. Members of the advanced board may be removed from office for cause by the Governor.

**Sec. 19. 32 MRSA §2152, sub-§1**, as amended by PL 1995, c. 379, §6, is further amended to read:

**1. Professional nurses.** Six professional nurses, each of whom:

A. Must be a graduate of a state-approved educational program in professional nursing;

B. Holds a current state license to practice nursing; and

C. Has at least 3 years' experience in active practice immediately preceding appointment.

A minimum of 2 professional nurses must be active in an approved educational program in nursing. A minimum of 2 professional nurses must be active in nursing service. ~~One~~Two of the professional nurse members of the board must be practicing long-term care nursing. ~~One of the professional nurse members of the board must be an advanced practice registered nurse;~~

**Sec. 20. 32 MRSA §2152-A** is enacted to read:

**§ 2152-A. Qualifications**

Each member of the advanced board must be a citizen of the United States and a resident of this State for at least 3 consecutive years prior to appointment and shall file with the Secretary of State an oath of office before beginning service. The advanced board is composed of 2 nurse practitioners, one clinical nurse specialist, one certified nurse anesthetist, one certified nurse midwife and 2 public members.

**Sec. 21. 32 MRSA §2153-B**, as enacted by PL 2005, c. 163, §4, is amended to read:

**§ 2153-B. Liaison; limitations**

The Commissioner of Professional and Financial Regulation shall act as a liaison between the board and the Governor and the advanced board and the Governor. The commissioner may not exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board and advanced board. The commissioner may require the board and advanced board to be accessible to the public for complaints and questions during regular business hours and to provide any information the commissioner requires in order to ensure that the board ~~is~~and advanced board are operating administratively within the requirements of this chapter.

**Sec. 22. 32 MRSA §2155**, as amended by PL 1985, c. 724, §17, is further amended to read:

**§ 2155. Compensation**

Eligible members of the board ~~shall~~and advanced board must be compensated according to the provisions of Title 5, chapter 379.

**Sec. 23. 32 MRSA §2201-A**, as enacted by PL 1995, c. 379, §7 and affected by §11, is amended to read:

**§ 2201-A. Qualifications for advanced practice registered nurse**

An applicant for approval to practice advanced practice registered nursing shall submit to the advanced board written evidence verified by oath that the applicant:

- 1. License.** Holds a current license to practice as a registered professional nurse in this State;
- 2. Education.** Has successfully completed a formal education program that is acceptable to the advanced board in an advanced nursing specialty area; and
- 3. Credential.** Holds a current certification credential for advanced practice registered nursing from a national certifying body whose certification program is acceptable to the advanced board.



A registered professional nurse who is approved by the advanced board to practice in accordance with former section 2102, subsection 2, paragraph B on the effective date of this section is considered to have met the requirements of subsections 2 and 3.

**Sec. 24. 32 MRSA §2204-A** is enacted to read:

**§ 2204-A. Examination; time**

The advanced board shall hold at least 3 examinations for advanced practice registered nurses approved by the advanced board annually at a place and at a time determined by the advanced board, with an option for a 4th examination, if the advanced board so determines.

**Sec. 25. 32 MRSA §2205-A**, as amended by PL 2005, c. 473, §1, is further amended to read:

**§ 2205-A. Licensure of persons licensed by another jurisdiction**

The board or advanced board may issue a license to practice professional nursing or advanced practice registered nursing as a registered professional nurse or advanced practice registered nurse under the following circumstances.

**1. Applicants licensed by other states, United States territories and Canadian provinces.** The board or advanced board may issue a license without examination of the applicant by the board or advanced board to an applicant licensed to practice by a state or territory of the United States or a province of Canada if the applicant:

A. Has graduated from an educational program approved by the official approving authority of a state or territory of the United States or a province of Canada, which at the time of graduation had standards considered by the board or advanced board to be equivalent to those of Maine schools;

B. Has been duly licensed by examination by the nursing board of a state or territory of the United States or a province of Canada, ~~provided that as long as~~ the examination is considered by the board or advanced board to be equivalent in all essentials to Maine's examination and ~~provided that as long as~~ the license of the applicant is in good standing and that there is no cause for suspension or revocation of that license. Acceptable examinations include examinations approved pursuant to section 2204-A, the State Board Examination, State Board Test Pool Examination, the National Council Licensure Examination and, for a person licensed prior to December 31, 2006, the Canadian Nurses' Association Testing Service Examination; and

C. If licensed in the other jurisdiction by passing an examination in a language other than English, has passed the Test of English as a Foreign Language. The board or advanced board shall provide information regarding the test to applicants who are required to take that test.

**2. Applicants licensed by other jurisdictions.** The board or advanced board may issue a license to an applicant licensed to practice by a jurisdiction other than those listed in subsection 1, if the applicant:

A. Has graduated from an educational program approved by the official approving authority of a jurisdiction other than those listed in subsection 1, which at the time of graduation had standards considered by the board or advanced board to be equivalent to those of Maine schools;

B. Has been duly licensed by examination by the nursing board of a jurisdiction other than those listed in subsection 1, ~~provided that as long as~~ the examination is considered by the board or advanced board to be equivalent in all essentials to Maine's examination and ~~provided that as long as~~ the license of the applicant is in good standing and that there is no cause for suspension or revocation of that license;

C. Has passed the National Council Licensure Examination for registered nurses; and

D. If licensed in the other jurisdiction by passing an examination in a language other than English, has either passed the Test of English as a Foreign Language or fulfilled the requirements of paragraph C by passing a test given in English.

**Sec. 26. 32 MRSA §2205-B, first ¶**, as enacted by PL 1995, c. 379, §8 and affected by §11, is amended to read:

The advanced board may grant approval to practice as an advanced practice registered nurse to a person who qualifies pursuant to section 2201-A.

**Sec. 27. 32 MRSA §2205-B, sub-§1**, as enacted by PL 1995, c. 379, §8 and affected by §11, is amended to read:

**1. Temporary approval to practice.** Temporary approval to practice as an advanced practice registered nurse may be granted by the advanced board:

A. For a period of 90 days to an applicant who is currently approved to practice as an advanced practice registered nurse in another jurisdiction with requirements at least equivalent to those of this State; or

B. For a period of 12 months to an applicant who meets the requirements of section 2201-A, subsections 1 and 2 and who qualifies to take and takes the next available certification examination under section 2204-A.

**Sec. 28. 32 MRSA §2205-B, sub-§2**, as enacted by PL 1995, c. 379, §8 and affected by §11, is amended to read:

**2. Termination.** The advanced board may terminate a person's advanced practice registered nurse designation when the person no longer holds a current certification credential.

**Sec. 29. 32 MRSA §2206**, as amended by PL 1993, c. 600, Pt. A §129, is further amended to read:

## **§ 2206. Renewals**

The license of every registered nurse and advanced practice registered nurse licensed under this chapter is renewable every 2 years, except as otherwise provided. At least 30 days before the date that the license expires, the board or advanced board shall mail an application for renewal of license to each professional nurse who holds a valid license. The application must be mailed to the most recent address of that individual as it appears on the records of the board or advanced board. That individual shall complete the renewal application and return it to the board or advanced board with the renewal fee designated by the board or advanced board, but not to exceed \$100, before the expiration date of the license. Upon receipt of the application and fee, the board or advanced board shall verify the accuracy of the application and issue to the applicant a renewal of license for a period of 2 years, expiring on the anniversary of the applicant's birth.

A registered nurse or advanced practice registered nurse who fails to renew the license as provided may be reinstated by the board or advanced board on satisfactory explanation for failure to renew the license and on payment of a reinstatement fee of \$10 in addition to the current renewal fee.

An individual practicing professional or advanced practice registered nursing during the time the individual's license has lapsed is considered an illegal practitioner and is subject to the penalties provided for violations of this chapter.

An individual who is not engaged in professional or advanced practice registered nursing in the State is not required to pay a renewal fee for as long as the individual does not practice but shall notify the board or advanced board of inactive status in writing. Prior to resumption of the practice of professional or advanced practice registered nursing, that individual is required to notify the board or advanced practice board and remit a renewal fee for the current period.

**Sec. 30. 32 MRSA §2207-A** is enacted to read:

**§ 2207-A. Advanced practice registered nurse; fees**

Every applicant applying for a license to practice as an advanced practice registered nurse shall pay a fee to the advanced board as follows:

**1. Examination.** For examination under section 2204-A, a fee not to exceed \$130 payable on application;

**2. Reexamination.** For reexamination, a fee determined by the advanced board not to exceed \$130; and

**3. Endorsement.** For endorsement, a fee not to exceed \$130 payable on application.

**Sec. 31. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 32, chapter 31, subchapter 2, in the subchapter headnote, the words "state board of nursing" are amended to read "state board of nursing and state advanced practice registered nursing board" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

## **SUMMARY**

This bill establishes the State Advanced Practice Registered Nursing Board that is independent of the State Board of Nursing and provides separate oversight and regulation of advanced practice registered nurses.